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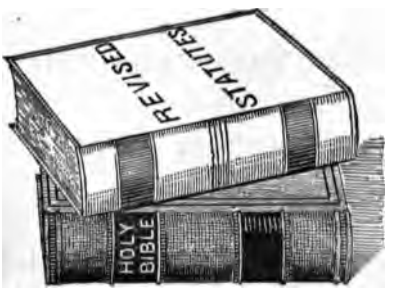

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THE CHURCH

—AND—

THE CIVIL LAW.

A MANUAL OF ECCLESIASTICAL LAW,

WITH AN

APPENDIX OF FORMS.

—BY—

CHARLES B. HOWELL, LL.B.,

AUTHOR OF "MICHIGAN NISI PRIUS CASES," ETC.

DETROIT:
CHAS. B. HOWELL,
1886.

DEDICATION.

To

THE TRUE FRIEND,
THE LOYAL CITIZEN,
THE MANLY MAN,
THE MODEL PASTOR,
THE ABLE, ELOQUENT PREACHER,

REV. WILLIAM WARWICK RAMSAY, D. D.,

THIS LITTLE VOLUME
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PRINTED BY
E. D. PRESTON & CO.,
149 JEFFERSON AVE.,
DETROIT.

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PREFACE.

The purpose in writing this Manual is to briefly and concisely present the essential features of the civil as related to ecclesiastical law.

In this land of civil and religious liberty, the Church, in all matters of faith, doctrine and, generally, in all spiritual things, is a law unto herself.

But there is a wheel within a wheel—in other words, a temporal within a spiritual church. The civil law has supervision over the temporalities of the church. All contracts, to be binding in the courts, must be made according to the law of the land.

The plan of the work allows only reference to the Michigan Statutes. Judge Andrew Howell's authorized Annotated Statutes are quoted from. Special laws are not referred to. But the numerous decisions cited are from the highest Courts of different States, and generally cover adjudications which are uniform throughout the country.

The Michigan Statute authorizes a variety of methods of church incorporation. The clear-headed lawyer or layman can readily decide which is to be preferred.

Among many who have aided me in the preparation of this work, I cannot forbear from here returning my profound thanks to the following persons: Hon. Thomas M. Cooley, Ann Arbor; Hon. O. A. Critchett, Monroe; Hon. John Moore, East Saginaw; Hon. C. R. Brown, St. Ignace, Rev. Dr. J. S. Smart, Albion; Rev. Dr. J. H. McEldowny, Rev. Dr. Moses Smith, Messrs. Ervin Palmer and Fraser & Gates, of Detroit.

The temporalities of the churches in this country are fast increasing in value, and those interested cannot be too careful in preserving their titles inviolate. The author hopes this Manual may aid such in the interpretation of the laws which govern the church militant.

C. B. H.

Detroit, July, 1886.

THE CHURCH AND THE CIVIL LAW.

CHAPTER 1.

INCORPORATION OF RELIGIOUS SOCIETIES.

ANY number of persons of full age, not less than five, may sign articles of association to organize a church or religious society. They may elect by a plurality of votes, not less than three, nor more than nine trustees, to take charge of the property and transact all business relating to the temporalities of the church. A majority of the trustees must be members of the church or society. *Sec.* 4618, *Howell's Mich. Statutes.* In the Methodist Episcopal Church, two-thirds of the trustees must be members of the church.

Persons desirous of forming themselves into a religious corporation should sign articles of association for that purpose, agree upon a name, elect trustees and place their articles of association on record, when duly signed and executed. They thereby become a corporation of the name agreed upon, and may take, hold and convey property, and exercise the ordinary functions of corporate bodies.

MANNER OF ELECTING TRUSTEES AND VESTRYMEN.

The Society may by a plurality of votes, elect the minister, priest, rector or other officiating clergyman the president of the corporation for the time being. One of these, or if none be present, one of the elders, deacons, or vestrymen, or for want thereof, any stated member, shall publicly notify the congregation of the time and place of election, which notice shall be given to the congregation for two successive Sabbaths on which such church, congregation or society shall hold services, next preceding the election. Any two elders, deacons, wardens, or vestrymen, or lacking these, stated members shall be inspectors of election.

Such inspectors shall, after the election, certify under their hands and seals, the names of persons elected to serve as trustees or vestrymen, and the name by which the corporation shall be called shall be particularly given. The certificate may name those elected, trustees, vestrymen, executive committee or other name, so that they possess the powers of trustees. *Sec.* 4619, 4620, 4621, *How Stat.*

Such certificate shall be acknowledged by the persons making the same, or proved by a subscribing wittness thereto, before some officer authorized to acknowledge deeds. This certificate and the articles of association shall be recorded by the County Clerk. Thereafter such trustees and their successors, shall be a body corporate by the name expressed in such certificate. *Sec.* 4622 *How. Stat.*

At the first election provided for every person of full age who has signed the articles of Association may vote. *Sec* 4622 *How. Stat.*

Vestrymen and other officers given the powers of trust

by any church, have the same duties and possess the same rights as the trustees.

ELECTION ACCORDING TO CHURCH USAGE.

Whenever by the constitution, rules or usages of any particular church, trustees are required, such trustees shall be nominated and elected according to the constitution, rules and usages of such denomination. It is the duty of the officer presiding over such election, to give to such trustees a certificate of their election, under his hand and seal, specifying the name by which such trustees and their successors shall forever thereafter be called and known, which certificate shall be acknowledged or proved by a subscribing witness thereto, before some officer authorized to take acknowledgments of deeds, which certificate and acknowledgment shall be recorded by the County Clerk in a book provided for this purpose. Such trustees and their successors thereby become a body corporate. *Sec.* 4647 *How. Stat.*

The above section requires a *meeting* of members, an *election* of trustees etc. Yet some clergymen *appoint* trustees without any meeting called for that purpose. A society so organized may by use grow into a lawful corporation. But the safer way is to elect trustees as the statute directs. The forms in the Appendix may be safely followed in this connection.

In organizing a society the statute should be substantially followed, and all the facts required to be stated in the certificate must be stated: *Ferraria vs. Vasconcelles* 23 *Ill.* 456; 29 *Wis.* 109.

Corporations *de facto*, or churches that have been acting

as corporations for ten years, become legal corporations in Michigan. *Ionia Cong. Church vs. Webber* 54 Mich. 571. In New York *user* is evidence of incorporation; *All Saints Church vs. Lovett* 1 Hall 19. But it is unsafe to rely upon such an incorporation, for the law requires clear proof that the society has continued during the interval of ten years, performing corporate acts. Maintaining regular worship, holding stated religious services, receiving and expelling members, and other transactions that an unincorporated society may perform, do not constitute corporate acts: *Newark Church vs. Clark*, 41 Mich. 736.*

In *Hardin vs. Second Baptist Church of Detroit*, 51 Mich. 137, plaintiff sued the church corporation for damages, claimed on the ground that she had been without trial and good cause expelled from the church. The Supreme court affirmed Judge Jennison's decision in the Wayne Circuit Court to the effect that the corporation was not liable. The distinctions between the corporation and the church society are so clearly and succinctly stated by the court, (Cooley J.) that the following portions of the opinion are quoted:—

"Persons desirous of forming themselves into a religious society sign articles of association for the purpose, agree upon a name, elect trustees and put their articles on record when duly perfected. They thereby become a corporation by the name agreed upon, and may take, hold and convey property and exercise the ordinary functions of corporate bodies. The associates are not neccessarily professors of any particular belief or faith, or members of any church; and corporate succession is kept up by conferring the priv-

*[Whenever any religious society or corporation shall have exercised the franchises and privileges of a corporation for a term of ten successive years, the same shall be presumed to have been legally organized in pursuance of the laws of this State. SEC. 4649 HOW. STAT.]

ileges of corporators on all who regularly attend worship in the society and contribute to its support. And the trustees who are to manage the temporal affairs of the corporation may or may not be church members.

Connected with the corporation the statute contemplates that there will be a church, though possibly this may not be essential. In this case there is one. The church has its members who are supposed to hold certain beliefs and subscribe some covenant with each other if such is the usage of the denomination to which the church is attached. The church is not incorporated, and has nothing whatever to do with the temporalities. It does not control the property or the trustees; it can receive nobody into the society and can expel nobody from it. On the other hand, the corporation has nothing to do with the church except as it provides for the church *wants*. It cannot alter the church faith or covenant, it cannot receive members, it cannot expel members, it cannot prevent the church receiving or expelling whomsoever that body shall see fit to receive or expel. This concise statement is amply sufficient to show that this suit has no foundatinn. The corporation is sued for a tort which it neither committed nor had the power to prevent, and which has occurred in a proceeding where the interference of the corporation would have been an impertinence.

But it is said that the church is an intregal part of the corporation in its spiritual capacity. Its being an integral part of the corporation proves nothing; counties, towns and school-districts are integral parts of the State, but the State is not for that reason liable for their torts. And as to spiritual capacity, the corporation has none; it is given capacity in respect to temporalities only. If the corporation has assumed to expel this plaintiff from the church, she might treat its action with contempt. But as she makes no

complaint of wrongful corporate action, we must assume that the corporation has never invaded her rights. If the church has done so, the church alone is culprit."

AMENDING ARTICLES.

Any church or religious society may amend its articles of association by a vote of two thirds of the members present at any meeting called for this purpose. Notice of this meeting must be given publicly to the congregation for two successive Sabbaths on which services are held next preceding such meeting. Such amendments shall become operative on filing a copy of the same, certified by the moderator, chairman or president and clerk of such meeting, with the County Clerk. *Sec.* 4618 *How. Stat.*

CHANGE OF CORPORATE NAME.

By a vote of two thirds of the society, conference, vestry session, synod or official board, twenty days previous notice of a meeting for that purpose having been given, the corporate name may be changed. The clerk or secretary of the meeting shall make a certificate of the fact, which certificate shall be countersigned by the presiding officer of the meeting, rector, presiding elder or minister, which certificate shall be acknowledged before some officer authorized to acknowledge deeds, and shall be recorded in the office of the County Clerk. *Secs.* 4650, 4651 *and* 4652 *How. Stat.*

The "Particular Baptist Church" may change its name to the "United Baptist Church" without losing its identity or the benefit of a grant of land. *Cahill vs. Biggar*, 8 *B. Monroe, (Ky.)* 213.

The Methodist Episcopal Church in the United States is a self-organized body, and may change the form of its organization and territorial limits without changing the rights of the local societies to property. *Gibson vs. Armstrong*, 7 *B. Monroe (Ky.)* 506.

Two or more corporations may unite in the following manner. Each body, at its annual meeting or at a meeting called by a majority of its trustees expressly to consider the propriety of consolidation, notice of which shall be given in the same manner as the annual meeting, may pass a resolution by a majority vote of the members of the corporation present at such meeting declaring it expedient that such consolidation should take place, which resolution, and the vote by which it was passed, shall be entered on the records of such corporation, and the record shall be signed by the chairman and clerk thereof.

After all the corporations interested have so resolved, a majority of the trustees may call a meeting of all the members of the different corporations. Notice of the time, place and object of the meeting shall be read for two successive Sundays next prior to such meeting in the several churches or societies, or if no service is held, by posting up notices in three public places of the town, at least fourteen days prior to such meeting, and by posting a copy of the notice on the church door. Not less than three from each corporation shall sign new articles of incorporation. Not less than five nor more than nine trustees may then be elected in the new society. *Sec.* 4643 *How. Stat.*

When the articles of association of the consolidated society have been recorded in the County Clerk's office, such new corporation shall succeed to and become the legal owner of all the property of such separate corporations, and shall be liable for all obligations incurred by them prior to the consolidation. *Sec.* 4644 *How. Stat.*

Consolidation must be according to the law. *Gastin vs. Penick*, 5 *Bush (Ky.)* 115.

SPECIAL CHARTERS.

Some old churches, as St. Anne—Chatholic—incorporated

in 1807, and the Central Methodist, incorporated in 1822 Detroit, are acting under special charters. *Farmer's History of Detroit and Michigan.* The present constitution prohibits the creation of corporations by special act except for municipal purposes. *(Art. 15, Sec. 1.)* Yet acts that relate to classes of societies are constitutional, as, providing for the incorporation of Young Men's Christian Associations, German Lutheran Churches and the like. But the Legislature can not by special act incorporate a single society.

CORPORATIONS SOLE.

A corporation sole, or one composed of one person, is not lawful in Michigan. This law is aimed at the "one man power." Churches might otherwise be tempted to lodge in some high dignitary unlimited power over property. The Catholic Church avoids the force of this by having the fee simple title of all her property vested in the Bishop in his individual name and capacity.

CHAPTER II.

POWERS AND DUTIES OF CORPORATIONS.

Church corporations are liable in business transactions within the scope of their powers, in the same manner as are other corporations. They can sue and be sued, borrow money, make contracts, and freely transact the business necessary to the carrying out of the purposes of the incorporation so far as not limited by the law of the land or the tenets of the church constitution or discipline.

The law of *ultra vires* applies to church corporations. This principle of law is to the effect that corporations and business firms are not bound in respect to their contracts, unless within the scope of their charter and the character of their organization. *Dartmouth College vs. Woodward*, 4 *Wheaton* 518.

A church cannot engage in mercantile or other secular business, unless by express provision of the statute.

But when an act beyond the scope of power has been fully executed, the courts will leave the parties where they are.

When there is no evidence before the court as to the manner in which a church contracts debts and executes contracts, and it appears that there are trustees, it will be presumed, in the absence of proof, that the trustees as a body are em-

:red to make debts and execute contracts on account of :hurch property.

rustees should act as a body, or delegate the power to of their number, or ratify the act of one of their num- acting for them, and unless they do this the church, as :orporation, will not be bound. The priest cannot employ oorers and bind the church unless authorized by the board : trustees. *St. Patrick's Church vs. Gavalon*, 82 *Ill.* 170.

Corporations can be bound by contracts made by agents, hough not under seal, and also by implied contracts infer- red from corporate acts, without either a vote, deed, or writing. 2 *Kent's Com. Sec.* 291; *Town of New Athens vs. Thomas*, 82 *Ill.* 261.

An Attorney at Law who is a trustee of a church may be employed by his co-trustees to perform professional services for the church, and become entitled to compensation, if there be a sufficient number of trustees left to perform corporate acts. The custom of the church in such cases is admissible in evidence. The simple fact that services are performed raises no liability to pay. When services are performed from kindly motives, and with charitable inten tions, the law will not imply a promise to pay for them The individual recognition of the right to compensation one of them is not admissible. They must act in their of cial character to bind the corporation. *Cicotte vs. St. An Church, Detroit*, 27 *Northwestern Reporter* 582. In this l case the court cites Farmer's History of Detroit, as to date when St. Anne's became incorporated. It is not o lay authority is cited in appellate tribunals.

A church is not liable upon a note signed by trustee dividually. *Colburn vs. Baptist Society of Monroe, Mich.* ' *W. Rep.* 887.

In a suit against a treasurer of a church, for moneys collected and not accounted for, the treasurer's affidavit in which he merely states that he has accounted for and paid over all such moneys, is insufficient. He should specify dates, persons and amounts. *McCracken vs. Reformed Presbyterian Church, (Pa.)* 1 *Central Reporter* 854.

Churches and religious societies may adopt by-laws requiring and regulating the registration of all members of the corporation who are entitled to vote at any meeting of the society, and in such case, only those registered shall vote. *Sec.* 4646 *How. Stat.*

No corporation, except for municipal purposes, or for the construction of rail roads, plank roads and canals, shall be created for a longer period than thirty years. *Sec.* 10, *Art.* 15, *Mich. Constitution.*

A bishop is not liable for a priest's salary. They are fellow servants. The bishop is a superior agent in the church. *Rose vs. Vertin*, 46 *Mich.* 457.

MONEY SUBSCRIPTIONS.

Subscriptions for moneys to be used for repairing or building churches may be collected through the courts. The subscription paper should be carefully drawn, and made as simple and direct in purpose as possible. The form on this subject in the appendix is based on the decisions of courts. Such paper should state when such money is to be paid, work done or materials furnished.

The mutual promise of the subscribers to pay is a sufficient consideration. *Allen vs. Duffie*, 43 *Mich.* 1.

If work is done on the strength of a promise it forms a sufficient consideration.

A promise to pay a church subscription at once is consis-

tent with a privilege given the promiser to take one yea time.

One subscribing money unconditionally cannot revoke l subscription. *Snell vs. M. E. Church*, 58 *Ill.* 290.

The trustees of an unincorporated society organized fo lawful purpose may receive gifts and promises to pay in behalf. But such society should have a definite nam place of worship and purpose of organization.

It is lawful to take subscriptions on the Sabbath; it com under the head of works of charity as covered by S 2015 *How. Stat.* The statute prohibits all labor on Sund except works of necessity and charity. Support of worsh is a work of charity. *Allen vs. Duffie*, 43 *Mich.* 1; *Commonwea vs. Sampson*, 97 *Mass.* 407.

Rest and the public worship of God were the primary o jects in the institution of the Sabbath, and no means reasc ably necessary to these ends are prohibited. *Johnston v Commonwealth*, 22 *Pa. St.* 102; 118 *Mass.* 195; 4 *Cushing* 24 9 *Allen, (Mass.)* 118.

CHAPTER III.

MARRIAGE.

In this country marriage contracts are governed by the civil law. While clergymen usually celebrate the ceremony, a magistrate will as well satisfy the demands of the law. Yet with most candidates the minister alone will make the ceremony complete.

The Michigan law lays certain duties upon the officiating clergyman or magistrate which are not as generally understood and performed as they should be.

Every minister and other person solemnizing marriage shall make a record of such marriage,—and the clerk among Friends, who take each other to be husband and wife—shall make a record of such marriage and, on demand of either bride or groom, shall deliver a marriage certificate, and within ninety days after the ceremony, shall deliver to the clerk of the County where the marriage takes place, a certified copy of such record, and pay the clerk a fee of twenty-five cents for recording the same. *See.* 859. The record and certificate must show the date and place of marriage, the christian surname of the bride and bridegroom, and the maiden name of the wife, if a widow, the color, age and place of birth of each, the residence of each at the time

of marriage; the name and official station of the persons by or before whom they are married; and the names and residences of at least two witnesses present at such marriage. *Sec.* 860.

Any one who fails to comply with said requirements of the Statute, or who shall make a false or fictitious entry on said certificate or record, shall be guilty of a misdemeanor, and upon conviction, be fined not exceeding $100, or imprisoned not exceeding ninety days. *Sec.* 863.

Marriage may be solemnized by any minister who has been ordained according to the usages of his denomination, and who is a pastor of any church in this State, or who shall continue to preach the gospel in this State, *provided*, that all non-resident ministers comply with the conditions of *Sec's.* 859 *and* 860,—*Sec.* 6215.

All who solemnize marriages are required, before the ceremony takes place to examine at least one of the parties upon oath, which oath the officiating official may administer, as to the legality of such intended marriage, *Sec.* 6216. Such examination should be, not a general question of—"Do you know of any reason why you cannot legally enter into this relation," such as is sometimes asked, but an inquiry into the *facts*, as in any judicial inquiry, from which the legal qualifications to enter into the relation may be inferred. Of course the extent of the examination should depend largely upon the knowledge the officiating officer has of the parties. *Bunker vs. People*, 37 *Mich.* 4—10.

No particular form of ceremony is required, except that the parties shall solemnly declare in the presence of the officiating officer, and witnesses—of which two are required —that they take each other as husband and wife. *Sec.* 6217.

Every male eighteen years of age and every female of six-

teen years shall be capable of contracting marriage, if otherwise competent. *Sec.* 6209.

Any one joining any persons in marriage contrary to law shall, upon conviction, be fined not exceeding $500. *Sec.* 6218.

The original certificates of marriage, or the records in the County Clerk's office, or the clerk's certified copy, are presumptive evidence of such marriage in all Courts and places where proof is needed of such marriage. *Sec.* 6222.

CHAPTER IV.

VOLUNTARY ASSOCIATIONS.

These are recognized by the law, and may make contracts and transact the business generally transacted by corporations. But the organization must be definite as to name, purpose, and field of operations.

The danger in respect to these associations is that they may not act as harmoniously and coherently as if regularly incorporated. Congregational churches are essentially of this character. They recognize no ecclesiastical authority over them. Every member agrees to submit to the will of the majority. *Lucas vs. Case*, 54 *N. H.* 297.

A unincorporated association which has for ten years exercised the rights and privileges of a corporation becomes thereby incorporated. *Sec.* 4649, *How. Stat.*

A corporation which grows out of a voluntary association succeeds to the property of the latter. *Trustees vs. Ruhlin*, 49 *Mich.* 515. But the action during the ten years must be that of a corporation. A church may call a minister, hold regular services, raise money and disburse it, and perform many other acts which, strictly speaking, are not corporate acts.

A corporation which holds college buildings for the German Lutheran Church is bound by contracts made by the

synod for the erection of the building, the synod being a shifting, unincorporated body. *McLaughlin vs. Concordia College*, 2 *Western Reporter* 425, *Mo.*

An unincorporated body is bound by its contracts with those who suppose it is incorporated by reason of its corporate acts.

Unincorporated associations take property in succession in the same manner as do corporations: 29 *Barber* 34; *M. E. Church vs. Bennett* 39 *Conn.* 293.

When a voluntary association moves smoothly it is as suitable as a corporation and meets the wants of those composing it. When it gets into the courts it is liable to suffer for lack of incorporation. This was one reason why the Newark M. E. Church Society, Lapeer County, failed to prove title to its supposed church property; (41 *Mich.* 736.) Christ Church, Detroit, was organized in 1855, but not incorporated till 1858; *Farmer's History of Detroit.*

Probably in a great majority of cases, the incorporation does not noticeably improve the condition of the church. But no society can foresee the day when it may need to have its titles to property clearly shown by the records; and in such case the value of the incorporation will be recognized.

The Michigan law provides that when a voluntary society becomes incorporated the property belonging to the former vests in the latter, so that unincorporated churches can readily release themselves from difficulty in relation to property, in most cases, by becoming incorporated.

The mention of Congregational Churches as belonging to voluntary associations, has reference to the general features of their original organization. So far as the Congegrational Churches of Michigan are concerned, the church property is held by trustees elected under the Statute of the State.

CHAPTER V.

RIGHTS AND DUTIES OF TRUSTEES.

Trustees must keep in view the aims of the founders of the church, For instance, they must receive the preacher appointed by the Bishop of the Methodist Episcopal Church. *People vs. State*, 2 *Barber* 398.

Bodies possessing purely ecclesiastical functions cannot interfere with the temporalities of the church, which are under the special control of the trustees. *Baptist Church vs. Witherel*, 3 *Paige* 226.

Trustees should act as a body, separate acts of individual trustees do not bind the corporation. *M. E. Church vs. Sherman* 37 *Wis.* 404.

Trustees may have a common seal, and may take into their possession all property, real and personal, belonging to the church and society, may sue and be sued with reference to such property, and transact generally the business relating to the church property. Such property may include residences for ministers or priests, and burial grounds. Funds cannot be held by trustees to exceed one year, and in amount $20.000, for the purchase of burial grounds. Trustees cannot hold beyond three years land exceeding $5.000 in value for investment before selling the same to raise money with

which to build or repair churches. Land not sold within the times named shall revert to the grantor or donor. *Sec.* 4624 *How. Stat.*

Corporations attest their written acts of conveyance etc. by a seal. To most persons a paper emanating from a great corporation looks unbusiness like if without seal. At the common law a wax seal was necessary; under the statutes of most of the States a scroll suffices; under Michigan Statute no conveyance of property shall fail for want of a seal. The pattern of seal adopted is left entirely with the corporation interested.

The trustees of a free church may compel persons to take seats assigned to them, unless rights to particular pews are interfered with, and the trustees may forcibly remove an intruder from a pew that he has no right to occupy. *Sheldon vs. Vail*, 28 *Hunton* 354.

In other chapters the rights and duties of trustees are incidentally referred to.

CHAPTER VI.

WILLS.

The right to dispose of property by last will and testament was exercised among the Romans, although, at times, there was thrown around the execution and probate of wills much ceremony. For instance, at one period of Roman History seven witnesses were required.

Wills were also known among the Anglo-Saxons. But the feudal system, which spread so widely and lasted so long, had for its foundation principle the perpetual entailment of lands. Yet after a time by the devise of the use, as distinguished from the fee-simple title, the rigors of the feudal law were modified, and during the reign of Charles II the power to alienate by will became absolute in England.

In Michigan all persons of lawful age, including women, may dispose of their property by will. Formerly the wife could only do this by the written consent of the husband, but now she can dispose of her separate estate by will or by deed without her husband's consent, and without his joining in a conveyance. *Sec.* 5785, *How. Stat.*

Any estate acquired after the will is made passes by it if this manifestly appears by the will to have been the intention of the testator. *Sec.* 5786, *How. Stat.* Two witnesses not

interested in the will must attest its execution.

A wife may, at her election, take the personal property bequeathed to her, or in lieu thereof the share that would descend to her if no will were made till the amonnt reaches five thousand dollars, and may take of the residue of the estate one half of what would have passed to her had her husband died intestate. *(Sec.* 5825.*)* Formerly a husband might leave nothing aside from the dower in real estate to his wife if he saw fit. No devise is valid in this State when made to a corporation unless to one organized under the laws of the State of Michigan. It is very important that this should be remembered as it cuts off all bequests and devises to foreign missionary and other societies incorporated only under the laws of other states or countries.

Every one who can make a will is unrestrained in the amount he sees fit to give to religious societies except that the wife's dower interest in land and a certain portion of personal property cannot be willed away from her. *Toms vs. Williams*, 41 *Mich.* 552.

Under Michigan law property cannot be alienated either by deed or will for a longer period than the lives of two persons in being at the date of the will or deed. This should be borne in mind, as it often occurs that one making a religious bequest desires that it be retained as a perpetual trust. Uses and trusts and the Law of entails have been abolished in this State.

One who makes a will should express his purpose in a clear and distinct manner, for, if vague and uncertain, the courts will declare it void. A bequest in the following language was declared void for uncertainty: "It is my will that said trustee shall dispose of such remainder for any and all benevolent purposes that he may see fit to give moneys

to." *Adge vs. Smith*, 41 *Conn.*

Courts are liberal in construing wills to religious corp tions. Every such body may take property by will ur expressly prohibited by law. *Boone on Corporations, Sec.* Extrinsic evidence is allowed to identify a corporation w the language in the will leaves the matter in doubt. *Bo vs. American Tract Society*, 9 *Allen* 447.

A devise to a voluntary unincorporated association is v if the association can be clearly identified. *Estate of Tic* 13 *Mich.* 44; *Crain's Appeal*, 66 *Penn. State*, 474. If such a ciation afterwards becomes incorporated the property na in the will, will vest in the corporation. 13 *Mich.* 44. *man on Real Property, See.* 883, *Note* 4.

Care should be taken in executing a will that the test declares it to be his will in the presence of the witnesses a signs it in their presence, and that they witness it in presence. While the Courts are liberal in this direct yet not unfrequently a will is refused probate becaus defective execution. A codicil, however brief, must executed with the same formalities that attend the execu of the original will.

The testator must be of sound mind when making a v but no more so than in making a deed or executing any o instrument. One very feeble in body, and quite eccer in manner, may still be of sufficient mind to underst what property he owns and the proper distribution of it.

The popular notion that wills are generally broke Courts is erroneous. Not more than one will in a thous is successfully contested. As a rule, when a contest succe the judgment of the Court is a most righteous one. contest over a will in the Courts attracts more attention t the quiet probating of a thousand wills. The writer

once attending to a case on behalf of a widow before Hon. E. O. Durfee, Judge of the Wayne Probate Court. The widow saw, during the hour she was there, the proceedings in twenty or thirty cases of administration and the probate of wills She expressed surprise that there were no contested cases. Yet that Tuesday morning was no different from the majority of Probate Court days.

CHAPTER VII.

CONVEYANCING.

While the paramount purpose of the Church is to obtain a

"Title clear
To mansions in the skies,"

she cannot ignore the question of title to sublunary possessions. Some persons think that anybody can fill out a blank deed. Yet it is unwise to accept a deed of the simplest nature unless it is approved by one who has some special knowledge of titles to real estate.

All deeds to churches should run to the corporation and not to individual trustees. Michigan law inhibits uses and trusts generally, and also the entailment of titles beyond two lives in being at the date of the deed. At the common law charitable uses were dealt with more liberally by the Courts than other uses and trusts, but here, where there is no established church, saint and sinner are in this respect equal before the law. *Newark M. E. Church vs. Clark*, 41 *Mich.* 736. In this case the church had never been incorporated. A certificate of appointment of a board of trustees had been executed, but no corporate acts were performed thereunder. A deed of the church property to trustees contained the condition prescribed in Sec. 393 of the Methodist E. Church

Discipline to the effect that the ministers appointed from time to time by the Church Conferences shall at *all times* be permitted to preach and execute the discipline and administer the sacraments according to the customs of the church. The court declared the title to be in the trustees personally, on the ground that no corporation existed which could succeed to the title of the trustees of the unincorporated society, and because a trust was created by the deed which in its terms was *perpetual*.

At the annual conference of the M. E. Church, held at Pontiac in 1885, Rev. Dr. J. S. Smart and Rev. T. G. Potter offered a resolution to the effect that deeds to the church should run to the church corporation. The resolution was referred to a committee of which Dr. Smart is Chairman, which will report to the next annual conference.

The law as to uses and trusts as stated prevails in Minnesota. (*Little vs. Wulford*, 31 *Minn.* 173.) Also in New York, Wisconsin, Maryland, Virginia and West Virginia. *Pomeroy's Equity Jurisdiction, Sec.* 1029 *and note.*

Whatever may be the chances in favor of the validity of deeds to trustees, the safer and wiser way is to deed to the corporation. Courts of equity will generally protect the interests of those connected with corporations. A corporation is bound to carry out the general trust for which it is created. Even though a special trust could be named in the deed, the technicalities of the law of uses and trusts are so numerous that the creation of an express trust should be avoided when practical. In Pennsylvania land deeded to a church for church and cemetery purposes forever reverts to the grantor whenever it ceases to be used for those purposes. *Gumbert's Appeal, Central Law Journal* 589.

Where deeds are made to trustees a fee simple title is con-

veyed even though not made to the trustees and their successors. *Wilcox vs. Wheeler*, 47 *N. H.* 488.

In a deed given by a church, the officers designated by the corporation should sign and acknowledge it.

It will do no harm if all the trustees sign it, but usually the president and secretary or clerk, only need to sign the instrument. If the officers sign the deed the presumption of law is that they are authorized.

A seal is generally used in executing a deed, but in this State no deed or instrument of conveyance is invalid for want of a seal.

A church can ordinarily sell its property without license from a Court, though the Court of Chancery may grant license to sell when it becomes necessary to invoke its aid. *Sec.* 4635 *How. Stat.*, 2 *Mich.* 115. Before a church can sell real estate the assent thereto must be obtained from two thirds of the legal voters present at a meeting called for the purpose. *Sec.* 7778 *How. Stat.* If rights of third parties do not intervere, this assent of voters may be obtained after the deed is executed. *Scott vs. Trustees*, 50 *Mich.* 528. The church records should show what takes place as to the assent to a sale of real estate.

A church may mortgage its property without the assent of members. 50 *Mich.* 528.

Conveyances should be plain and clear in the description of the property and in every other respect.

A deed of trust of real estate "for the use of the ministry and membership of the M. E. Church in the United States" is too vague and is invalid. 1 *Atlantic Reporter (Md.)* 713.

When it is difficult to make a description plain, a reference may be made to other papers on record to render it more definite, or to some fact well known, as "being the farm

owned and occupied by William Buck, deceased, in his life time."

Deeds of pews and slips may be recorded. *Sec.* 5684 *How. Stat.*

Property conveyed to, and used by, a church society for church, burial grounds or a parsonage, is exempt from general taxation while used for such purposes. But special assessments, as for side walks, sewers, etc., are liens upon church property and must be paid.

CHAPTER VIII.

THE PASTOR'S RIGHTS AND DUTIES.

In England the rector of an established church has vested property rights in the parsonage and titles. But here all the property belongs to the church corporation; and while the pastor may be allowed as full control for the time being as if the owner in fee simple, yet he is only a tenant, so to speak, of the church. The rules and regulations of a church, as well as long custom, may perhaps give the pastor such use of the property occupied as would prevent the church from taking possession except after the lapse of the period for which a pastor is employed to preach. The pastor's right to the church and parsonage is in the nature of an easement, by which he may enter and occupy according to the usages and constitution of the church. The church may obtain an injunction to prevent a minister from using church property or conducting religious services, if it is shown that he has not been called or appointed in accordance with the polity of the denomination to which he belongs. *First Congregational Church vs. Stewart*, 43 *Ill.* 81.

A pastor may collect his salary in the Courts if he has engaged as pastor with the corporation. In some churches those who regulate the salary of the pastor and the church

finances may not be the corporation, but a committee of members, board of stewards etc. Generally the intervention of the law is not needed in the adjustment of church finances. Yet it is only a wise precaution to have the salary as well as other obligations of a church in such form as will enable claimants to collect in the Courts. The business world has respect for the church that puts its obligations on a business basis that courts will recognize, if unfortunately the matters get into Courts. The power of a pastor's influence is weakened when his church fails to pay promptly his salary.

Calling one as a "*permanent* rector" means till such time as he, or the church, is dissatisfied upon reasonable grounds, and after reasonable notice of the termination of the relation. *Perry vs. Wheeler*, 12 *Bush (Ky.)* 541.

In the Methodist Episcopal Church pastors are appointed by the Bishop of the Conference, so that questions like the last one above noted do not arise in that church.

CHAPTER IX.

CATHOLIC CHURCHES.

Except St. Anne's Detroit which, as stated elsewhere, has a special charter, Catholic churches in Michigan are not incorporated. The Bishop holds all property in his individual name as private owner in fee simple. This was first done because of the Act. of 1855 *(Sec.* 2030,—*Compiled Laws of* 1857*)* which provided that no bishop, vicar etc. should have the power of a corporation sole, or hold property in their official capacity; and that all deeds and devises to corporations not organized under the Michigan Statute should be void; and that no canon or ecclesiastical law should prevail in matters relating to property. In 1867, the legislature authorized the Catholic bishops of Bardstown, Ky., Cincinnati, O., and of Sault Ste. Marie, Marquette and Detroit, and their successors, to take and hold property for charitable, religious and literary purposes,—*P.* 288 *Session Laws* 1867; *Sec.* 4727 *How. Stat.*

This act on its face seems to make bishops corporations sole, and therefore appears to be unconstitutional. Hon. John C. Donelly, an able catholic lawyer, in the *Western Land Guide and Real Estate Lawyer* for December, 1885, argues that "corporations sole do not come within the prohibition

"of the constitution, and that section 11, article 15 of the constitution practically limits the application of section 1, article 15 to corporations of a business nature, such as associations, joint stock companies and others of that kind; but even if this is not so, and if in so far as the act attempts to create a corporation sole, it is invalid; still, for the general purposes of authorizing bishops to take property in their official character, and also for the purpose of enabling the beneficiaries to establish the trust purposes for which it is received by parol evidence, the act would be considered valid. It is clearly a legislative prerogative to provide that a person may acquire and hold property in his official character and hold it in trust for certain purposes to be transmitted to his successors in office, and also to provide as a rule of property that the trust porpose for which it is granted and received may be established by parol evidence and enforced. It is a well settled rule of constitutional law that some portions of an act may be declared invalid and the rest sustained and enforced."

But, as will be seen in the chapter on conveyancing, the trust must not be perpetual or it will render void the deed creating it.

The catholic churches have not accepted the provisions of the Act of 1867, and the bishop still holds property in his private capacity. There are good lawyers who think that the bishop really holds in trust, and that a court of Equity would, in a proper case, hold him accountable as a trustee, notwithstanding the law prohibits secret trusts and all trusts not expressly declared in the instrument creating the same.

CHAPTER X.

JURISDICTION OF COURTS OVER CHURCHES.

The Courts of law in this country do not interfere with the religious liberty guaranteed by the Constitution. Every one may worship God according to the dictates of his own conscience, or may be an infidel, atheist, agnostic, or what not in his belief. Churches possess exclusive jurisdiction in all matters of faith and doctrine, and have general control of matters of discipline and church government. *Tarter vs. Gibbs*, 24 *Md.* 323. It is only when the rights of persons to property or personal liberty are improperly interfered with by the church that the courts interfere to adjust differences. Doctrines are only used in Courts as facts, to be proved like other facts, to enable courts to determine personal rights. 27 *Ill.* 237; *Connitt vs. Reformed Church*, 54 *N. Y.* 551; *Chase vs. Cheney*, 58 *Ill.* 509.

The church may make by-laws and may personally expell disturbers of their meetings. This is a common law right. *McLain vs. Metlock*, 7 *Ind.* 525.

The State courts have no power over deacons, elders, class leaders and other officers not authorized by the law of the State. *Ter Vree vs. Geerlings, Mich. Supreme Court*, 22 *N. W. Rep.* 89.

The property of a religious society is held upon a trust, which the courts will uphold. This trust need not be declared in the instrument conveying the property to the church. Some seem to think this necessary, and encumber their conveyances with conditions which defeat the very trust they intend to carry out. An illegal severance of the property is a violation of the trust. *Jones vs. Wadsworth, Phil. Common Pleas Court.* (3 *C. L. J.* 809)

A change of the essentials in religious belief is a violation of the trust. 9 *Wend.* 401; *Miller vs. Gable*, 2 *Denio*, 510.

Even where there is an established church, as in England, the civil courts will enforce the execution of trusts relating to church property, and will settle title in case of schism; the faith and doctrines of each class of conflicting claimants will be considered incidentally, not for the revision of their creeds, but to ascertain facts necessary to a fair adjudication of the rights of the parties.

A law suit on behalf of, or against, a church, must be in the corporate name and not in the name of the trustees. *Nor. St. Louis Church vs. McGowan* 3 *Cen. Law Journal* 274 (*A. D.* 1875.)

The court will interfere when officers or members attempt to transfer the church over to another sect. *Kinkead vs. McKee*, 9 *Bush.* (*Ky.*) 535.

The ringing of church bells at unnecessarily frequent intervals, and at unusual times, may be declared a nuisance, and suppressed by the courts. 133 *Mass.* 289; 14 *Mo.* 590.

The court of chancery is the tribunal in which the trusts of the church are determined when a violation of them is charged. Whether the society is incorporated or not, equity will see that trusts are faithfully performed. *Bowden vs. McLeod*, 1 *Edw.* 588.

In the above case two factions of a society were trying to get possession of the church. While their disputes were under the scrutiny of a synod, the court directed that each party should each alternate week have the use of the church.

A court of law can ascertain whether the funds of the church are in the hands of an agent duly appointed according to the usages of the society. *Field vs. Field*, 9 *Wend.* 395.

The certificate of incorporation is the best evidence to prove the fact of incorporation, but secondary evidence may be offered to show this fact in the absence of better evidence. *Jackson vs. Leggett*, 7 *Wend.* 377.

Oral evidence is admissible to prove the official character of trustees *de facto*. *Walworth vs. Campbell*, 28 *Mich.* 111. It is held in the same case that evidence of the notice of the meeting to authorize a sale of real estate, as well as the action taken by the church, must be shown by the written notice and records of the proceedings of the meeting. Many churches do not keep up these records so they can produce them in court.

Courts are not very technical about the corporate name so long the identity of the society is retained. "The trustees of the Orthodox Congregational Society of Middleville" was held to mean "The First Orthodox Congregational Society of Middleville." A corporation may be known by as many names as an individual. 28 *Mich.* 111.

The courts will not interfere to oust a pastor who holds by a majority vote of the members of an independent church. *Ind. Church vs. Proctor*, 66 *Ill.* 11.

The civil courts will enforce the rules of independent societies when they do not controvene positive law. *Harrison vs. Hoyle*, 24 *Ohio*, 254.

A member who uses in common with others the church

property, is entitled to the aid of a Court of Equity in obtaining an accounting. 3 *Wallace Jr.* 66; *Boone on Carporations Sec.* 284.

One expelled for moral delinquences will obtain no relief from a court unless he has vested rights to church property. 33 *New York* 103.

The power of civil courts over ecclesiastical bodies is similar to the power of a superior over an inferior tribunal. *Smith vs. Nelson*, 18 *Vt.* 51; 2 *Bush* 332. Civil courts will restrain ecclesiastical bodies where the latter assume authority in matters outside the scope of their powers.

The courts will as far as possible adopt the rules and enforce the polity of the church in the spirit for which they were designed. *Harrison vs. Hogle*, 24 *Ohio* 254.

CHAPTER XI.

ECCLESIASTICAL BODIES—ELECTIONS.—RECORDS —PEWS.

Any conference, convocation, synod, presbytery, or any religious society in which three or more regularly organized churches are represented may become incorporated by entering a resolution on their minutes declaring that purpose, which shall contain the name and the object of such incorporation. When a copy of such resolution, attested by the presiding officer and secretary or clerk of the meeting, together with a copy of the organic law by which such body is governed, is deposited in the office of the Secretary of State, Lansing, such body shall thereby become incorporated. *Sec.* 4653, *How. Stat.*

Such corporation may hold real and personal estate not exceeding in value $100,000, to be devoted exclusively to the diffusion of religious principles and the building up of churches, Sunday schools and other religious objects. *Sec.* 4654.

Such corporation, when required by the Attorney General, Sec'y of State or either house of the Legislature, shall report a full statement of its real and personal estate, and all its financial affairs which shall be filed in the office of the Secre-

tary of State. Said corporation may, by vote of two-thirds of all the members, at any time change the name thereof. Notice of such change shall be forthwith filed in the office of the Secretary of State. Such change shall in no wise affect the liability of such corporation for any debts or obligations due from it.

Any such synod, conference, diocese, or other similar organization may become incorporated by electing not less than three nor more than nine trustees, and designating the corporate name. The presiding officer shall give a certificate of election to the trustees. duly acknowledge the same before some proper officer and file said certificate in the office of the County Clerk.

When a majority of such organization so vote, said trustees may convey or mortgage any real estate held by said trustees. In every case of such conveyance said trustees shall file in the office of the Register of Deeds of the County in which the real estate is situated, a copy of the acts of said association, duly certified by the Secretary thereof, authorizing such conveyance. Such record shall be *prima facie* proof in the courts of the State of all the facts and acts of such association appearing in said record. *Secs.* 4656, 4657, 4658.

It will be observed that not only single churches, but ecclesiastical bodies, may have a choice of methods in becoming incorporated. Such bodies do well to be incorporated, as they are then not only able to properly transact all necessary business, but may be the custodian of devises and bequests of generous testators who desire to leave property to be used for religious and philanthropic purposes. As Michigan law prohibits the holding of property by foreign

corporations, these bodies will be used more and more as devisees in wills.

CHURCH ELECTIONS AFTER ORGANIZATION.

Any two of the trustees may at any time call a meeting of the trustees, and the majority of them lawfully convened constitute a quorum. Trustees shall hold their offices for three years and until their successors are elected and enter upon their duties. After the first election the trustees shall be divided by lot into three classes; holding office for one two and three years respectively, so that one third of the trustees be annually chosen. Yet churches becoming incorporated according to their own articles and customs may elect all the trustees annually. *Sec.* 4629 *How. Stat.*

The clerk of said trustees at least one month before the term of any trustees expires shall notify the minister, priest or parson, or in case of his death the elders, church wardens, deacons or vestrymen specifying the names of the trustees whose office will expire. The minister or one receiving such notice shall in like manner notify the church or congregation, and appoint the time and place for election. *Sec.* 4630 *How. Stat.*

Such election shall be held at least six days before vacancy shall occur. No person shall vote at any election after the first until he shall have been an attendant upon public worship in such church or society, at least six months before such election, and shall have contributed to the support of such church or society according to the customs thereof. *Secs.* 4631, 4632.

CHURCH RECORDS.

All corporate bodies should keep a record of all its corporate acts. The courts require the best evidence obtainable

to prove corporate acts. A church cannot fail to keep records and claim any advantage by reason of such neglect. *Scott vs. M. E. Church*, 50 *Mich.* 532.

If a church starts right in this respect, it can easily keep up the records, and thus be ready to show its status and condition whenever occasion requires.

PEWS AND PEW HOLDERS.

Where the pew is conveyed to one and to his heirs so long as they remain members of a certain church, the pew holder owns a qhalified fee. But this gives no title to the soil under the pew. The right to the pew ceases when the church edifice burns, or is destroyed by time, and the trustees may take down and rebuild the structure when necessary without consulting the pew holder. *Heeney vs. St. Peters Church*, 2 *Etw. Rep.* 608. Yet the pew holder in the old, would be entitled to some pew in the new, church built from the proceeds of the sale of the old church. It might be otherwise should the old church be destroyed by time or burn down uninsured.

CHAPTER XII.

MISCELLANEOUS.

Some things that have been omitted elsewhere will be considered in this chapter.

In church trials, those conducting them are allowed the privileges given them by the church constitution or articles of association. Words spoken by one engaged in such a trial cannot be called in question elsewhere, unless one has grossly abused his privilege and is guilty of express malice. *Lucas vs. Case*, 54 *N. H.* 297.

The removal of a priest by the Bishop without a hearing will be enjoined by a court of equity. *O'Hara vs. Slack*, *(Pa.)* 10 *Cen. L. J.* 28.

Acceptance of a deed may be after the grantor's death. A trust deed will not fail for want of an express acceptance by the trustee. Where the trust deed grants the power of alienation at the option of the trustee, the power of alienation is not suspended even if the option is not exercised. The trust is forever ended upon the execution and delivery by the trustee of a conveyance. If apt words are used no particular form is needed for the creation of the power of alienation in a deed. The punctuation will be largely disregarded to enforce the meaning of a deed. *Thatcher vs. St.*

Andrew's Church, Ann Arbor, 37 *Mich*. 264.

It is advisable that the trustees of the church by a resolution entered on their record should authorize certain of their officers, as the president and secretary, to sign and execute conveyances of property. An instrument signed by the president and secretary of a corporation and bearing the impress of the corporate seal raises the presumption that such officers were authorized to execute it. *Morse vs. Beale, (Iowa)* 27 *N. W. R.* 461.

The authority to mortgage church property should be in writing. 41 *Mich*. 130.

But the power to give a chattle mortgage is incidental and need not be specially authorized. 28 *Mich*. 119.

In New Hampshire it is held that when the title is in the Catholic Bishop individually no special trust can be proved by oral testimony, and the Bishop can not be compelled to account to the church. He holds in trust "for the use and benefit of the Universal Catholic Church," and is only accountable to his ecclesiastical superiors. *Hennessey vs. Walsh*, 15 *Am. Law Reg*. 264.

A religious society may prescribe such rules as they may think proper for preserving order at meetings held for public worship, and may use such force as is neccessary to remove a disturber of a meeting or a wilfull violator of the rules. *McLane vs. Metlock*, 7 *Ind*. 525.

Parents cannot arbitrarily direct what faith their children shall choose, and courts will not interfere in such matters, except that when the question of whether husband and wife—when they live apart—shall have the custody of a child, the court may consider the religious training of the child theretofore as one of the facts on which its decision is based. *Lynch vs. Bratton, (Delaware)* 15 *Am. Law Reg*. 359.

APPENDIX.

PRACTICAL FORMS.

NOTICE OF MEETING FOR INCORPORATION.

There will be a meeting of the male members of lawful age of the———Church of Ann Arbor, at the Pastor's Study in said Church, on Monday evening, the————day of———A. D. 18— at 8 o'clock, for the purpose of forming a church corporation.

M. L. D., Pastor.

NOTICE OF A CHURCH MEETING TO AMEND ARTICLES OF INCORPORATION.

Notice is hereby given that a meeting of the members of the Calvary Presbyterian Church, will be held in the pastor's study on Tuesday evening, April 21, 18—, to consider the question of amending the articles of incorporation of said society.

A. B., Pastor.

(See page 6 of the Manual.)

CERTIFICATE OF INCORPORATION OF A CHURCH UNDER CHAPTER 170 OF MICH. STATUTES.

We, the undersigned, [two of the elders, wardens or members] of the First Congregational Church of Ann Arbor, do certify that on the——day of——A D. 18— the voters of said church metat— for the purpose of incorporation, and did then and there elect——president of said meeting, and the undersigned as returning officers, and did then and there elect by plurality of votes, John Hamilton and (two to eight others) as trustees of the said church, and by a like plurality determined that said trustees and their successors should forever afterwards be called and known as the First Congregational Church of Ann Arbor.

Said meeting of the male voters of the said church was called in pursuance of a notice duly given on the——day of ——and the——day of——at the stated meeting of said congregation for public worship, by M. L. D., the minister (or in the absence of the minister, by H. G. B. or other member) of said church.

In witness whereof, we have hereunto affixed our hands and seals, at Ann Arbor, Michigan, this——day of——A. D. 18—.

L. B. T., { L. S. }

Signed and sealed in the presence of

F. D. T., { L. S. }

J. C. M.

A. H. W.

(The above should be acknowledged before an officer authorized to acknowledge deeds.)

ARTICLES OF ASSOCIATION OF A CHURCH CONFERENCE.

STATE OF MICHIGAN, } ss.
COUNTY OF WAYNE, }

We, the undersigned, do hereby certify that we desire and agree to form an incorporated association or body politic in law, pursuant to an act of the legislature of the State of Michigan, entitled "An act to provide for the incorporation of associations, conventions, conferences of religious bodies, for literary, religious or other benevolent purposes, approved March 27th., A. D. 1867," and amended by "An Act approved February 2nd, 1875," under the name of the Detroit Annual Conference of the Methodist Episcopal Church, and do adopt the following articles of association.

FIRST:—The purposes for which this association is formed, are the acquisition of property, real and personal, by purchase, gift, bequest and otherwise, and holding, using or disposing of the same for the benefit of the members of the Detroit Annual Conference of the Methodist Episcopal Church in all ways and manner that may seem best to the said association, for religious, literary or benevolent purposes.

SECOND:—The principal office for the transaction of the business of the association shall be in the City of Detroit, at which the meetings shall be held, except the annual meeting at the seat of the Detroit Annual Conference aforesaid, in each year, at which time the trustees of the association shall be elected by the said Detroit Annual Conference in session, as specified below. The election shall take place on the second day of the session of the said conference.

THIRD:—The business of this association, in the intervals of the meetings of the association, shall be conducted

by a board of nine trustees, and James M. Fuller, Seth Reed, Elijah H. Pilcher, John M. Arnold, William Fox, Alanson R. Bartlett, Alfred F. Bourns, Raynor S. Pardington and Lewis R. Fiske shall constitute the first board of trustees, and are divided into three classes in the order in which their names are written above; the first class to hold office for three years, the second for two years the third for one year, or until others are elected to fill their places. The first election shall take place at the next session of the Detroit Annual Conference. The full term of office shall be three years. The trustees shall always be members of the Detroit Annual Conference of the Methodist Episcopal Church. The trustees shall annually elect from their own number a President, a vice President, a Secretary and Treasurer, and such other officers as they may think necessary; and may adopt such by-laws as may be necessary for the orderly management of the business of the association.

FOURTH:—All members of the Detroit Annual Conference of the Methodist Episcopal Church are hereby constituted members of this association, and a cessation of membership in the said Detroit Conference aforesaid shall cause a cessation of membership in this association.

IN TESTIMONY WHEREOF, we have hereunto set our hands and seals this twenty eighth day of November, 1876, at the City of Detroit.

JAMES M. FULLER,	[L. S.]
SETH REED,	[L. S.]
ELIJAH H. PILCHER,	[L. S.]
JOHN M. ARNOLD,	[L. S.]
ALANSON R. BARTLETT,	[L. S.]
ALFRED F. BOURNS,	[L. S.]
RAYNER S. PARDINGTON,	[L. S.]
LEWIS R. FISKE,	[L. S.]
WILLIAM FOX,	[L. S.]

STATE OF MICHIGAN, } ss.
COUNTY OF WAYNE. }

This certifies that on this twenty-eighth day of November, A. D. 1876, personally appeared before me, a Notary Public in and for the County of Wayne, the above named James M. Fuller, Seth Reed, Elijah H. Pilcher, John M. Arnold, Alanson R. Bartlett, William Fox, Alfred F. Bourns, Rayner L. Parkington and Louis R. Fiske, persons all known to me to be the persons executing the foregoing instrument, and severally acknowledged that they executed the same freely for the purpose therein named.

WM. ARNOLD,
Notary Public for Wayne Co.,

Residing in Lapeer Co.

SUBSCRIPTION FOR CHURCH BUILDING AND IMPROVEMENTS.

We, the undersigned. hereby mutually agree to pay on or before six months after date, to the trustees of the First Methodist Episcopal Church of Caro, Mich., or their successors, for the benefit of the fund being raised to pay for a site for a church, and for the expense of building a church edifice thereon, for the benefit of said church in said village, the sums set opposite our names.

Caro, June 1st. 1880.

(Names.) Amounts.

CERTIFICATE OF ORGANIZATION IN THE M. E. CHURCH.

To all people to whom these presents shall come. Greeting: Whereas by the Discipline which is the Constitution of

the Methodist Episcopal Church, it is provided and contemplated that trustees shall be elected to have charge of the church property and temporalities of the societies, and constitute the religious corporation for such purposes; Therefore pursuant to and according to the constitution, rules, and usages of said Methodist Episcopal Church, there was, on the——day of——A. D. 18—, at the hour of—— o'clock—m. at——in the city, [village, or township] of—— held by persons members of the——charge, a quarterly conference, said——charge being one of the societies of said Methodist Episcopal Church in the——district in the Michigan Conference, at which meeting and quarterly conference there where present the following named persons, viz: [Here insert the names of the members of the quarterly conference who were present.]

The Rev.———, Presiding Elder, [or preacher in charge, as the case may be,] of said district, [or of said——church, as above] presided according to the usages of said Methodist Episcopal Church. The following proceedings were had in said meeting and conference, viz: It was decided to organize and constitute a religious corporation in said——charge by the election of——[insert the number] trustees. Thereupon said meeting and conference did duly elect——[here insert the names] as trustees of the religious corporation to be known as————Methodist Episcopal Church, and they, the said——[insert the names again] and their successors should thereafter forever constitute a religious corporation to be known by the said name of——Methodist Episcopal Church.

Therefore I, the said————[insert the name of the presiding officer] Presiding Elder [or preacher in charge] of said——district [or church] and presiding officer over said

election, do hereby certify to you the said——[insert names of trustees] that you are duly elected as aforesaid, trustees of and to constitute forever, you and your successors, the religious corporation to be known as————Methodist Episcopal Church.

In witness whereof I hereto set my hand and seal this——day of——A. D. 18—.

[Signed]————————————————[Seal.]

Presiding Elder, [or preacher in charge] of district [or church] and presiding officer at the election.

State of Michigan } ss.
County of——— }

On this——day of——, A. D. 18—, before me, a Notary Public, in and for said county, personally came Rev.——— known to me to be the person who signed and sealed the foregoing certificate, and acknowledged the signing and sealing thereof to be his free act and deed.

[Signed]————————Notary Public.

(We copy the above from the Michigan Advocate.)

WILLS.—SHORT FORM.

I, A. B., of Coldwater, Michigan do make, publish and declare this to be my last will and testament, hereby revoking all former wills made by me.

After the payment of my debts and funeral expenses, I give, devise and bequeath to my beloved wife C. D.,———. I give, devise and bequeat to the First Baptist Church of ————, a corporation, Ten Thousand Dollars, to be used as the trustees of said church may direct.

I appoint my beloved wife, C. D., sole executrix of this my last will.

In witness whereof, I have signed, sealed, published and declared this instrument as my will, at the city of Marquette, Michigan, this——day of——A. D. 18—.

C. D. [L. S.]

The said C. D., at said Marquette, Michigan on said——day of——A. D., 18—, signed and sealed this instrument and published and declared the same to be his last will in our presence, and we, at his request and in his presence and in the presence of each other have hereunto written our names as subscribing witnesses.

J. M. W., Marquette, Mich.
F. M., Marquette, Mich.

MINISTER'S RETURN OF A MARRIAGE.

TO THE CLERK OF THE COUNTY OF WAYNE, STATE OF MICHIGAN.

SIR:—On this third day of July A. D. 1880, the following named parties were joined in matrimony by me, at Wayne, Michigan.

BRIDEGROOM.

1. Full name of ***Bridegroom:***...Theo. Williams.
2. Color of Bridegroom:.....White.
3. Residence at time of Marriage:..Union City, Ten.
4. Age at last Birthday:.....37 years.
5. Birthplace:.....Chatham, Ontario.
6. Occupation:.....Merchant.

BRIDE.

7. Full name of *Bride:*..Lillian Ler Stanbrough.
8. Maiden name if a widow:.....
9. Color of Bride:.....White.
10. Residence at time of Marriage:..Union City, Ten.
11. Age at last birthday:.....18 years,
12. Birthplace:.....Nolensville, Tennessee.

The witnesses to this marriage were:

Mary J. Baskerville of Wayne, Mich. and

May Fisk of Wayne, Mich.

REV. T. H. BASKERVILLE.

DEED UNDER COURT'S ORDER.

THIS INDENTURE, Made the 12th. day of August, in the year of our Lord one thousand eight hundred and seventy four, ***BETWEEN*** The Westminster Church of Detroit, Michigan of the first part, and the Calvary Church of Detroit of the second part.

Witnesseth, That the said party of the first part, for and in consideration of the sum of one dollar to it in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, does by these presents, grant, bargain, sell, remise, release and forever QUIT-CLAIM unto the said party of the second part, and to its successors and assigns, ***FOREVER,*** ALL that certain piece, or parcel, of land, situate in the City of

Detroit, in Wayne County, and State of Michigan, known and described as follows:

[Description of property.]

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining; ***To have and to hold*** the said premises to the said party of the second part, and to its successors and assigns, to the sole and only proper use, benefit and behoof, of the said party of the second part, its successors and assigns, Forever.

In Witness Whereof, the said party of the first part has caused its corporate seal to be affixed and these presents to be subscribed by its President.

Signed, Sealed and Delivered in Presence of

CHR. F. BURTON,
JOSEPH M. WEISS.

The Westminster Church of Detroit, by William Jennison, President of the Board of Trustees, in pursuance of a resolution duly passed by said Board, and also in pursuance of an order of the Wayne Circuit, dated March 1, 1873. File No. 16,675.

L. S.

STATE OF MICHIGAN, } ss.
COUNTY OF WAYNE. }

On this 12th. day of August in the year one thousand eight hundred and seventy four before me, the subscriber, a Notary Public in and for said county, personally appeared William Jennison, President of the Board of Trustees of Westminster Church of Detroit, to me known to be the same person described in and who executed the within instrument, who acknowledged the same

to be the free act and deed of said church that the foregoing seal was its corporate seal, and was affixed by authority of said Board.

CHARLES F. BURTON,
Notary Public,
Wayne County, Michigan.

DEED FROM ONE CHURCH TO ANOTHER.

THIS INDENTURE, Made this fourth day of April, A. D. 1884, ***BETWEEN*** St. John's Church, of Detroit, a corporation, party of the first part, by Henry P. Baldwin, George S. Swift, James Burtenshaw, Robert McMillan, Hervey C. Parke, Henry P. Baldwin, 2nd., Charles H. Dickerson, Edward M. Cary, George H. Minchener and Frank G. Smith, Vestrymen of said church, duly authorized to make this conveyance by a vote of the congregation of the parish represented by said corporation at a meeting called and held as by the certificate of the record of the proceedings of said meeting hereto attached will more fully and at large appear, party of the first part, and St. James Church, Detroit, a corporation organized under the laws of said state. party of the second part, ***Witnesseth,*** That the said party the first part, in consideration of the sum of———doth forever quit claim unto said party of the second part, its successors and assigns forever all the following described land. * * * * * * * * * * * *

In Witness Whereof, the seal of said St. John's Church, Detroit, is hereto affixed, and the said vestrymen have hereunto set their hands.

[Seal of St. John's Church.]

Signed, Sealed and Delivered in Presence of	Henry P. Baldwin,	[L. S.]
	George S. Swift,	[L. S.]
	James Burtenshaw,	[L. S.]
	Robert McMillan,	[L. S.]
[2 Witnesses.]	Hervey C. Parke,	[L. S.]
	Henry P. Baldwin, 2nd.	[L. S.]
	Charles H. Dickerson,	[L. S.]
	Edward M. Cary,	[L. S.]
	George H. Minchener,	[A. S.]
	Frank G. Smith,	[L. S.]

STATE OF MICHIGAN } ss.
COUNTY OF WAYNE. }

Before me, a Notary Public in and for said County, this fourth day of April, 1884, personally came Harry P. Baldwin,(and the others named) known to me to be the grantors named in and who executed the within and foregoing deed and severally acknowledged the same to be their free act and deed.

FRANK F. WILLIAMS,
Notary Public,
Wayne County, Mich.

QUERIES AND ANSWERS.

During the time the Manual has been in preparation several questions have been asked the writer, which he here groups together, and gives to them such answers as he is able.

Q. 1. Can one who advances money to improve a church have a lien on the church property for the money?

A. 1. Yes, if he have the promise of the trustees as a body to pay the money, and file his notice of Mechanics' lien within the time required by law. Where trustees passed a resolution that a church should be mortgaged to pay money so advanced, it was held that the one so advancing money had a lien on the church building etc., *Perry vs. Board of Missions; N. Y. Court of Appeals, March* 7, 1886, 3 *C. L. R.* 62.

Q. 2. Can the quarterly conference of one M. E. Church organize a board of trustees for another M E. Church?

A. 2. Sec. 4618 Howell's Statutes provides that a majority of the trustees shall be members of the church incorporated. The Methodist discipline requires that two-thirds of the trustees shall be members of the church organized. So we say no to the question, if the other church be a separate and distinct organization.

Q. 3. Does Section 10 article 15 of the Michigan Constitu-

tion limiting the existence of corporations to 30 years, include religious corporations ?

A. 3. The language would seem to be broad enough, but the Sections connected with No. 10 refer to business and manufacturing corporations. Therefore we think religious corporations are not included in the limitation.

Q. 4. Can a church which incorporates with five trustees, increase the number at subsequent elections.

A. 4. They cannot except by re-incorporating.

Q. 5. Where two churches of the same denomination have had one board of trustees for several years composed of men belonging to one of them can the "one" dispose of the other church without the consent of its members?

A. 4. While the trustees are the legal owners of the property, a court of equity would doubtless prevent them from prejudicing the interests of a whole body of church members.

Q. 6. Does section 4618 of Howell's Annotated Statutes, in referring to "any person," include women ?

A. 6. We think it does.

Q. 7. Can one single trustee hold church property ?

A. 7. Perhaps, under a private trust, but it takes three persons at least to constitute a *board* of trustees under the law, and no church should allow its property to be held by one trustee, unless under extraordinary circumstances.

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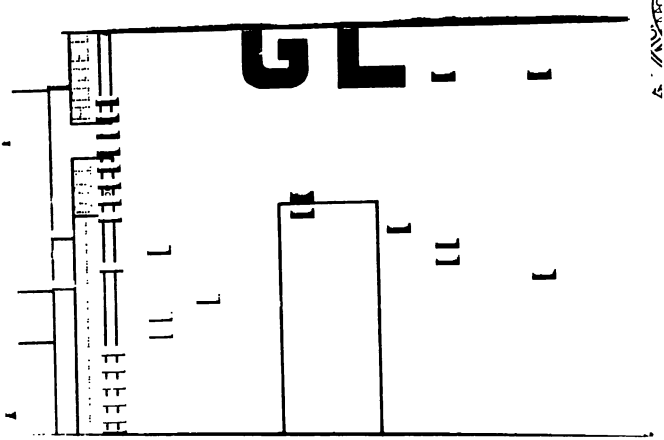

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